

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES E. HARKEN

Plaintiff,

v.

JOHN KERRY,

Defendant.

Case No. 1:23-cv-352

Hon. Hala Y. Jarbou

ORDER

Plaintiff James E. Harken brings this action against Defendant “John Kerry, special presidential envoy for climate.” (Compl., ECF No. 1, PageID.1.) Plaintiff believes that Defendant “is committing fraud against the Citizens of the United States by having President Biden shut down the use of coal, oil, natural gas and gasoline, stating that carbon emissions from their use is causing Global Warming/Climate Change.” (*Id.*) On May 24, 2023, Magistrate Judge Ray Kent issued a Report & Recommendation (R&R) recommending that this case be dismissed. (*See* R&R, ECF No. 9.) Before the Court are Plaintiff’s objections to the R&R (ECF No. 10).

The Magistrate Judge recommended that this case be dismissed for lack of subject matter jurisdiction because Plaintiff has not suffered a concrete and particularized injury, as is required for Article III standing. (*See* R&R 3-5.) In the alternative, the Magistrate Judge recommended that it be dismissed for failure to state a claim. Because Plaintiff is proceeding *in forma pauperis* pursuant to 28 U.S.C. § 1915, the Court “shall dismiss” Plaintiff’s complaint “at any time if the court determines that . . . the action . . . (ii) fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2).

Plaintiff's complaint consists of essentially manifestos claiming that Defendant and President Biden are lying to the public regarding the impact of carbon emissions on global warming. It cites no legal claims, does not allege any injury, and seeks no particular relief from Defendant. Rather, Plaintiff merely asks the "Judicial Branch" to intervene. (Compl., PageID.5-6.) Plaintiff's objections to the R&R are similarly a compilation of facts that are unrelated to the Magistrate Judge's legal recommendations. For example, Plaintiff states

Therefore if the U.S. shuts down all of its coal fired plants it will only affect CO-2 and mercury emissions by 8% but the United States will lose over 40% of its electrical generating capacity and will have destroyed the U.S. energy sector. Nice investment!

(Pl.'s Objs. to R&R, ECF No. 10, PageID.36.) Because Plaintiff fails to substantively object to the Magistrate Judge's recommendations, the Court will overrule his objections. Plaintiff has still not alleged an injury-in-fact sufficient to confer Article III standing or stated a claim upon which relief can be granted.

Accordingly,

IT IS ORDERED that the R&R (ECF No. 9) is **APPROVED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that this case is **DISMISSED** for lack of subject matter jurisdiction or, in the alternative, for failure to state a claim.

A judgment will enter in accordance with this order.

Dated: August 31, 2023

/s/ Hala Y. Jarbou

HALA Y. JARBOU

CHIEF UNITED STATES DISTRICT JUDGE